



City of Seattle

Department of Planning and Development
Diane Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3012722
Applicant Name: Robbin Gray
Address of Proposal: 4224 - 51st Ave S

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 281 sq. ft. deck in the required rear yard.*

The following approvals are required:

Variance - To allow a deck in the required rear and side yard (SMC 23.44.014.D)

Variance - To exceed 35 percent lot coverage in a single family zone.
(SMC 23.44.010.C)

* The proposal has been modified since the original application to remove the requested variance to allow a structure in the required front yard.

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading, or demolition,
or another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The subject site is located in southeast Seattle on 51st Ave. S. between S. Adams St. and S. Genesee St., is developed with a single family residence and detached two-car garage, and is zoned Single Family 7200 (SF 7200, Single Family residential with a minimum lot area requirement of 7,200 sq. ft.). The property has a lot area of 5,264.57 sq. ft., according to the plans. The eastern property line abuts property which is owned by the Seattle Department of Parks and Recreation (DOPAR), adjacent to Lake Washington Blvd S. The subject property is bounded by single family properties to the north and south, and the 51st Ave. S. right-of-way on the west. Surrounding properties to the north and south are also zoned SF 7200, and are developed with single family residences. Across 51st Ave. S. to the west, the zoning changes to SF 5000 (Single Family residential with a minimum lot area of 5,000 sq. ft.).

The property slopes down from the west to the east, such that the ground floor on the west (front) side of the house becomes the second story on the east (rear) side of the house. The site is designated as an environmentally critical area (ECA) due to steep slopes. However, an ECA exemption from steep slope development standards was granted by DPD's geotechnical engineers on February 16, 2012.

Proposal Description

The proposal is to add a 281 sq. ft. deck in the required rear yard on the eastern side of the house, and to remodel an existing one-story garage to add a second story and enlarge the structure footprint by about 106 sq. ft. The existing garage is located in front of the residence and is non-conforming to current development standards in that it extends about four feet into the required front yard. The proposed garage addition would maintain this existing nonconformity at the ground level but the second story would be setback along the western façade and would conform to required yard standards (i.e. setbacks). The existing garage is accessed on its northern façade. The remodeled garage would be accessed on the western façade, facing 51st Ave. S. The second story addition includes a full bathroom, a music room, storage, an interior stair connecting the two levels of the garage, and a small balcony on the eastern façade. The proposed garage addition meets development standards for height, location and yards, and could be permitted outright. However, the proposed garage and proposed deck together exceed lot coverage standards and would require variance relief. Thirty-five percent lot coverage is the maximum permitted in single family zones; 40.4 percent is proposed.

As noted above, the proposal originally also included a request for a variance to allow the garage addition to extend into the front yard, but the project was revised so that this variance is no longer required.

Variances are also required for the proposed deck because it is located in the required rear and side yards. The depth of the required rear yard varies, due to the shape of the lot. The proposal is for a one-foot setback along the rear property line for a length of 38 feet. The applicant originally identified the need for the variance to locate the deck in the rear yard, but subsequent zoning review found that the deck is also located within the required side yard (due to the way rear yards are measured for odd-shaped lots in the Land Use Code).

The applicant is requesting three variances: to allow a structure in a required rear yard, to allow a structure in a required side yard, and to allow lot coverage which exceeds the 35 percent maximum allowed by code. These variances are discussed below.

Public Comments

The public comment period for this project began on November 17, 2011, was extended by public request and ended on December 14, 2011. Comment letters from two neighbors were received. In addition to the public comments, the Seattle Parks Department also provided comments.

ANALYSIS - VARIANCES

Pursuant to SMC 23.40.020 C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist.

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and***

The property is trapezoidal, with the rear property line at an acute angle relative to 51st Ave. S., and a total lot area of 5,267 sq. ft. according to the survey. The front (west) property line abuts 51st Ave. S. The north and south side yards abut single family property lines. The rear (east) property line abuts DOPAR property, which (according to the applicant's survey) extends more than 111 feet before reaching Lake Washington Blvd. S. The subject property is designated as an environmentally critical area due to steep slopes. However, as noted above, it has been exempted from steep slope development standards by DPD's geotechnical engineer.

The existing residence is nonconforming with respect to required rear and side (north) yards. The required rear yard is roughly triangular, and the existing residence extends seven to eight feet into the required rear yard for a length of about 18.5 feet. At the closest point, the house is about three feet from the rear property line. DPD Permit No. 6252123 recently authorized the reconstruction of an existing nonconforming second-story deck in the rear yard, which extends to within a foot or less of the rear property line. (The approved plans for 6252123 appear to show zero setback from the rebuilt deck to the rear property line, but the plans for this variance application show a rear setback for that deck of one foot.) The deck authorized under Permit No. 6252123 wraps around the southeast corner of the house and is also located in the south side yard. According to the plans, the existing nonconforming deck has not yet been reconstructed. The proposed deck would extend this existing nonconforming deck the full length of the rear façade.

The existing residence was built in 1909, according to the King County Assessor's Office, but it has been extensively remodeled. Work authorized under permits issued since 2009 includes alterations and additions, rebuilding of an existing nonconforming rear deck (described above), and removal of a southeast corner of the residence that encroached onto DOPAR property.

While the size of the property is smaller than the current code minimum of 7,200 feet in the SF 7200 zone, it is not small compared with other properties on the same block face. In addition to the subject property, there are five other parcels on the same block face that have frontage on 51st Ave. S. Their respective lot areas, moving north to south are (according to King County records) 3,120 sq. ft., 6,300 sq. ft., 5,400 sq. ft., 6,600 sq. ft., and 2,820 sq. ft. When the 5,267 sq. ft. site is included, the average lot size on the block face is 4,918 sq. ft. Although undersized for the SF 7200 zone, the subject site is larger than average for the block face on which it is located.

Although the property slopes down from the west to the east, the project received a waiver from steep slope development standards so that the topography and Environmentally Critical Areas regulations do not limit development of the site.

The applicant states that since the house was built in 1909 and the property to the east was condemned for Park purposes in 1911, this created a hardship not of the property owners' making. It is not clear from the information submitted by the applicant the extent to which the subject site may have been reduced in area by the 1911 condemnation. Although the King County Assessor's records indicate that a residence was located on the property as early as 1909,

it is clearly not the same structure or configuration that exists today. Any reduction in lot area that may have occurred has not prevented the construction and remodeling of the existing 2,325 sq. ft. (heated area) residence and 440 sq. ft. garage (per DPD Permit No. 6252123). The condemnation that occurred over 100 years ago does not represent a hardship unique to this site.

The trapezoidal shape of the site and the location of the existing residence relative to the rear lot line both result in an oddly shaped and configured rear yard with limited functionality. This constitutes a hardship that would deprive the property of full use of their rear yard. The strict application of the Land Use Code would deprive the applicant of a deck that is similar to other properties in the near vicinity. This criterion is met for the proposed deck in the rear and side yards.

However, the same cannot be said for the requested variance from lot coverage standards. Given the larger-than-average size of the property when compared with others on the block face, and the ECA exemption that provided relief from steep slope development standards, there is no demonstrated hardship related to the requested lot coverage variance. This criterion is not met for the proposed increase in lot coverage from 35 percent to 40 percent.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and

As described above, the proposed second-story deck would extend an existing non-conforming rear deck (permitted but not yet built) the entire length of the rear façade. The proposed deck would extend to within one foot of the rear property line for a length of 38 feet (when the portion located in the side yard is included). One foot clearance between the deck and property line would not allow for construction and routine maintenance without potentially encroaching onto the neighboring (DOPAR) property. The proposal clearly exceeds the minimum necessary for a deck that could be constructed and maintained entirely on the subject site. A setback of at least three feet from the property line would be needed to ensure adequate space to construct and maintain a second story deck. The project will be conditioned to require at least a three foot setback from the rear property line for the proposed deck, along its entire eastern length. With this condition, variance relief to allow a deck to be located in the rear and side yards would not constitute a special right or privilege or exceed the minimum necessary to afford relief. As conditioned, this criterion is met for the deck in the rear and side yards.

Regarding the proposed lot coverage variance, as discussed above, the applicant has not demonstrated a hardship related to lot coverage that requires variance relief. Therefore, any variance granted to exceed lot coverage would exceed the “minimum necessary” and would constitute a special privilege for this property owner. It is up to the applicant to decide how to configure their lot coverage on site. Although the garage, on its own, would not require variance relief the construction of both the proposed garage and deck would require relief from the maximum 35 percent lot coverage allowed. However, the proposed garage addition increases the existing garage footprint by more than 100 sq. ft. and is generous even when compared with other two car garages. The deck (as conditioned) and garage together cannot be considered the minimum necessary to afford relief. This criterion is not met for the requested lot coverage variance.

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and

The rear of the subject site abuts DOPAR property adjacent to Lake Washington Bld. S. According to the survey, the property is located more than 100 feet from Lake Washington Boulevard. The Parks Department property is landscaped and slopes toward the lake and is open to general public enjoyment. If the proposed deck were located within one foot of the rear property line, access to DOPAR property would be needed to construct the deck and for routine maintenance.

The broad expanse of DOPAR property, east of the site, provides a visual buffer from the boulevard that serves to mitigate the appearance of the proposed deck in the rear and side yards. As conditioned, the granting of the requested variances will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. This criterion is met for the proposed deck in the rear and side yards.

The proposed increase in lot coverage would allow greater bulk and scale on the property than that enjoyed by others in single family zones. As noted above, although the garage alone would not require variance relief, it is large and together with the deck would require relief from lot coverage standards. The garage bulk on the street side of the house, together with the change in orientation of the garage doors to face the street, will be very apparent to neighbors and passersby. Since it would be possible to build the garage as proposed without variance relief if lot coverage were reduced elsewhere on site, we can't conclude that the proposed remodeled garage will be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. This criterion is met for the requested lot coverage variance.

4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and

As described in the response to the criteria above, the literal and strict application of the Land Use Code would limit the applicant's use and enjoyment of their rear yard and preclude the deck addition. Denial of the requested variances for a deck to be located in the required rear and side yards would result in undue and unnecessary hardship. This criterion is met for the requested deck to be located in the required side and rear yards.

In contrast, no undue hardship or practical difficulty has been demonstrated with regard to the request variance from lot coverage standards. This criterion is not met for the lot coverage variance.

5. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.

The requested variance for a deck to be located in the required rear and side yards is consistent with the spirit and purpose of the Land Use Code regulations for single family zones for the reasons given in the foregoing analysis. All of the applicable criteria are met.

The proposed variance from lot coverage standards would not be consistent with the spirit and purpose of the Code, as it would permit additional bulk on the lot, absent the Code recognized circumstances that permit such intrusion.

DECISION - VARIANCES

Variances to allow a deck in the required rear and side yard (SMC 23.44.014.D) is
CONDITIONALLY GRANTED.

Variance to exceed 35 percent lot coverage in a single family zone (SMC 23.44.010.C) is
DENIED.

VARIANCES – CONDITIONS

For the Life of the Project

1. The proposed one-foot distance between the easternmost deck façade and the rear property line must be increased to three feet.

Signature: _____ (signature on file)
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

Date: May 17, 2012